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Trustee
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8 **UNITED STATES BANKRUPTCY COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
10 **NORTHERN DIVISION**

11 In re

12 HVI CAT CANYON, INC.,

13 Debtor.
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Case No.: 9:19-bk-11573-MB

Chapter 11

**TRUSTEE'S NOTICE OF MOTION AND
MOTION FOR ORDER ESTABLISHING
CLAIMS BAR DATE FOR PRE-
PETITION CLAIMS; MEMORANDUM
OF POINTS AND AUTHORITIES;
DECLARATION OF MICHAEL A.
MCCONNELL IN SUPPORT THEREOF**

Date: February 11, 2020
Time: 10:00 a.m.
Place: Courtroom 202
1415 State Street
Santa Barbara, California

20 **TO THE HONORABLE MARTIN R. BARASH, UNITED STATES BANKRUPTCY**
21 **JUDGE, AND INTERESTED PARTIES:**

22 **PLEASE TAKE NOTICE** that on February 11, 2020, at 10:00 a.m., in Courtroom "202"
23 at the United States Bankruptcy Court for the Northern District of California, Santa Barbara
24 Division, located at 1415 State Street, Santa Barbara, California, Michael A. McConnell, the
25 Chapter 11 trustee of the estate of HVI Cat Canyon, LLP (the "Trustee"), will, and hereby does,
26 move (the "Motion") the Court, pursuant to Federal Rules of Bankruptcy Procedure ("FRBP")
27 2002(a)(7) and 3003(c)(3) and Local Bankruptcy Rule 9013-1 for an order establishing March 31,
28

2020 (the "Claims Bar Date") as the bar date for filing proofs of claim on account of pre-petition claims (the "Motion").

PLEASE TAKE FURTHER NOTICE that the Motion is based on the Notice of Motion, this Motion, the attached Memorandum of Points and Authorities, the Declaration of Michael A. McConnell, as well as such other and further grounds as may be properly presented to the Court.

PLEASE TAKE FURTHER NOTICE that pursuant to Local Bankruptcy Rule 9013-1(f)(1), you are hereby advised that each interested party opposing, joining or responding to the Motion must file and serve their papers on the moving party and the United States Trustee not later than fourteen (14) days before the date designated for hearing. Any response to the Motion must be writing, filed with the Clerk of the Court and served on the United States Trustee, 1415 State Street, Suite 148, Santa Barbara CA, 93101, and the Trustee's counsel at the address noted in the upper left-hand corner of the first page of the Motion. Failure to observe this procedure may be deemed by the Court to be consent to the granting of the requested relief.

DATED: January 13, 2020

DANNING, GILL, ISRAEL & KRASNOFF, LLP

By: 

ERIC P. ISRAEL

Attorneys for Michael A. McConnell,
Chapter 11 Trustee

MEMORANDUM OF POINTS AND AUTHORITIES

I.

STATEMENT OF FACTS

The Debtor is a Colorado corporation authorized to conduct business in the State of California. It is the owner and operator of producing oil and gas wells in California. The wells are located in Santa Barbara County, Orange County and Kern County.

On July 25, 2019, the Debtor filed a voluntary petition for relief under Chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"). The case was originally filed in the Southern District of New York. The case was transferred to the Northern District of Texas, and then later to the Central District of California.

On or about August 9, 2019, an Official Creditor's Committee was appointed.

The Debtor initially operated its business as a "debtor in possession," until on or about October 16, 2019, when the Court entered its Agreed Order Granting Motion for Appointment of a Chapter 11 Trustee.

On or about October 22, 2019, the Court approved the appointment of Michael A. McConnell as the Chapter 11 trustee in this case.

II.

ARGUMENT

It is Appropriate for the Court to Set a Claims Bar Date

Pursuant to Federal Rule of Bankruptcy Procedure 3003(c)(3), the court "shall fix and for cause shown may extend the time within which proofs of claim or interests may be filed."¹

¹ Fed. R. Bankr. P. 3003(c)(3), states as follows:

(3) Time for filing. The Court shall fix and for cause shown may extend the time within which proofs of claim or interest may be filed. Notwithstanding the expiration of such time, a proof of claim may be filed to the extent and under the conditions stated in Rule 3002(c)(2), (c)(3) and (c)(4) and c(6).

1 The Trustee submits that a bar date should be set at this time in this case for the filing of
2 proofs of claim for pre-petition debts. Establishing a claims bar date in the case will aid the Trustee
3 in operating and administering the Debtor's estate for the benefit of creditors, and in formulating
4 and confirming a plan of reorganization (as needed), negotiating sales and settlements, and other
5 dispositions in this case. In contrast, no creditor, interest holder, or party-in-interest will be
6 prejudiced by the establishment of a bar date at this time, as creditors and potential creditors will
7 receive notice of the Claims Bar Date and have an opportunity to file their Proofs of Claim.

8 The Trustee has been informed that a prospective buyer would like a bar date set. The
9 Trustee believes the setting of a bar date will assist in determining the number and amounts of
10 claims against the estate. Thus, the Trustee believes that it is both desirable and necessary to set
11 and give notice of the Claims Bar Date. The Trustee proposes that **March 31, 2020**, be set as the
12 Claims Bar Date. A copy of the proposed Notice of Claims Bar Date Notice is attached to the
13 Declaration of Michael A. McConnell, marked as Exhibit "1" and incorporated herein by this
14 reference.

15 The Trustee has confirmed that the Committee has no opposition to setting **March 31, 2020**
16 as the Claims Bar Date in this case.

17 Fed. R. Bankr. P. 2002(a)(7) provides:

18 [C]reditors shall be given not less than twenty one day's notice by mail of . . . the
19 time fixed for filing proofs of claims pursuant to Rule 3003(c)

20 The Trustee proposes to serve by first class mail a notice of the Claims Bar Date to all
21 known creditors, interest holders and parties-in-interest. The Trustee also requests approval by the
22 Court of the form of the notice of the Claims Bar Date.

23
24 **III.**

25 **CONCLUSION**

26 WHEREFORE, the Debtor respectfully requests that this Court enter an order
27 1) establishing a bar date of **March 31, 2020** in this case for the filing of proofs of claim for pre-

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1 petition claims, 2) approval of the form of the notice of the Claims Bar Date, and 3) for all other
2 appropriate relief.

3
4 DATED: January 13, 2020

DANNING, GILL, ISRAEL & KRASNOFF, LLP

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6 By: 

7 ERIC P. ISRAEL

8 Attorneys for Michael A. McConnell,

9 Chapter 11 Trustee
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DECLARATION OF MICHAEL A. McCONNELL

I, Michael A. McConnell, declare as follows:

1. I am the Chapter 11 Trustee of HVI Cat Canyon, Inc. The matters stated herein are true and correct and based upon my personal knowledge except as to such matters stated on information and belief which matters I believe to be true.

2. If called as a witness, I could and would competently testify with respect to the matters set forth herein.

3. I have read the Motion for Order Establishing Claims Bar Date for Pre-Petition Claims (the "Motion"). Each of the facts set forth in the Motion is true and correct, to the best of my knowledge, information and belief.

4. A claims bar date in the case will aid me in operating and administering the Debtor's estate for the benefit of creditors, and in formulating and confirming a plan of reorganization (as needed), negotiating sales and settlements, and other dispositions in this case. Thus, I believe that it is both desirable and necessary to set and give notice of the Claims Bar Date. I propose that **March 31, 2020**, be set as the Claims Bar Date.

5. I have been informed that a prospective buyer would like a bar date set. I believe the setting of a bar date will assist in determining the number and amount of claims against the estate. Thus, I believe that it is both desirable and necessary to set and give notice of the Claims Bar Date.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed at Fort Worth, Texas on January 15, 2020.



MICHAEL A. McCONNELL

EXHIBIT "1"

Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address ERIC P. ISRAEL (State Bar No. 132426) eisrael@DanningGill.com DANNING, GILL, ISRAEL & KRASNOFF, LLP 1901 Avenue of the Stars, Suite 450 Los Angeles, California 90067-6006 Telephone: (310) 277-0077 Facsimile: (310) 277-5735 <input type="checkbox"/> Individual appearing without attorney <input checked="" type="checkbox"/> Attorney for: Michael A. McConnell	FOR COURT USE ONLY
UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA - NORTHERN DIVISION	
In re: HVI CAT CANYON, INC., Debtor(s).	CASE NO.: 9:19-bk-11573-MB CHAPTER: 11
	NOTICE OF BAR DATE FOR FILING PROOFS OF CLAIM IN A CHAPTER 11 CASE [LBR 3003-1]
	<input type="checkbox"/> No hearing: LBR 9013-1(q) <input checked="" type="checkbox"/> Hearing information DATE: 02/11/2020 TIME: 10:00 a.m. COURTROOM: 202 ADDRESS: 1415 State Street Santa Barbara, CA

1. Bar Date. The court has set a deadline of (date) March 31, 20 20 (Bar Date), for creditors in the above-referenced case to file proofs of claim against the Debtor's estate. ON OR BEFORE THE BAR DATE, PROOFS OF CLAIM MUST BE FILED WITH THE COURT CLERK AT:

- | | |
|--|--|
| <input type="checkbox"/> 255 East Temple Street, Los Angeles, CA 90012 | <input type="checkbox"/> 411 West Fourth Street, Santa Ana, CA 92701 |
| <input type="checkbox"/> 21041 Burbank Boulevard, Woodland Hills, CA 91367 | <input checked="" type="checkbox"/> 1415 State Street, Santa Barbara, CA 93101 |
| <input type="checkbox"/> 3420 Twelfth Street, Riverside, CA 92501 | |

2. Form. You may obtain a Proof of Claim form (Official Form 410) on the Bankruptcy Court's web site at <http://www.cacb.uscourts.gov>, or visit the Intake area at any division of the Court.

3. Exceptions to the Bar Date. Exceptions to the Bar Date include, but are not limited to, the following:

- (a) Executory contracts/unexpired leases. For claims arising from rejection of any executory contract or unexpired lease, the last day to file a Proof of Claim is the later of (a) the Bar Date or (b) 30 days after the date of entry of an order authorizing the rejection of such contract or lease or after any automatic rejection of such contract or lease. See 11 U.S.C. §§ 365(d)(4) and 502(g).

This form is mandatory. It has been approved for use in the United States Bankruptcy Court for the Central District of California.

- (b) Governmental units. For claims of governmental units, the last day to file a Proof of Claim is the later of (a) the Bar Date or (b) before 180 days after the date of the Order for Relief in this case (the person signing this form has determined that the Order for Relief was entered on (date) 07/25/2019, and therefore calculates that this deadline is (date) 01/21/2020). See 11 U.S.C. §§ 101(27) and 502(b)(9).
- (c) Avoidance. For claims arising from the avoidance of a transfer under chapter 5 of the Bankruptcy Code (11 U.S.C. § 544 and following), the last day to file a Proof of Claim is the later of (a) the Bar Date or (b) 30 days after the entry of judgment avoiding the transfer. See 11 U.S.C. § 502(h).
- (d) Agreed claims. If your claim is listed on the Debtor's official bankruptcy schedules of assets and liabilities (Schedules) and it is not listed as disputed, contingent, unliquidated or unknown, then your claim is deemed filed in the amount set forth in those Schedules. 11 U.S.C. § 1111(a). But, if your claim is not listed on the Schedules, or is listed as disputed, contingent, unliquidated or unknown, or if you disagree with the amount or description of your claim (e.g., its description as unsecured or non-priority), then you must timely file a Proof of Claim as set forth in this Notice.
4. 11 U.S.C. § 503(b)(9) Claims. Claims arising from unpaid goods received by the Debtor in the ordinary course of business within 20 days prepetition are subject to an administrative expense priority pursuant to 11 U.S.C. §§ 507(a)(2) and 503(b)(9). Any creditor who wishes to assert such a claim must file a Proof of Claim by the Bar Date, modified as follows: *Section 12 of Proof of Claim*. **Identify:** (i) the goods for which the Debtor has not paid; (ii) the method(s) of shipment; (iii) the actual date(s) when those goods were *received* by the Debtor (or state that an estimated date has been used); (iv) the place of delivery – e.g., “computers shipped via U.S. mail, received by the Debtor at the Debtor's warehouse on [insert estimated date]” (use a continuation sheet if necessary); and (v) the box for “Other” priority and specify that priority is under **11 U.S.C. §§ 507(a)(2) and 503(b)(9)**.
5. Interest Holders. If the Debtor or the chapter 11 trustee believes it necessary to set a bar date for interest holders (e.g., holders of common or preferred stock), then, before this Notice is served, the chambers of the presiding judge in this case must be contacted for further instructions.

FAILURE OF A CREDITOR TO FILE A PROOF OF CLAIM ON OR BEFORE THE DEADLINE MAY RESULT IN DISALLOWANCE OF THE CLAIM OR SUBORDINATION UNDER THE TERMS OF A PLAN OF REORGANIZATION WITHOUT FURTHER NOTICE OR HEARING. 11 U.S.C. § 502(b)(9). CREDITORS MAY WISH TO CONSULT AN ATTORNEY TO PROTECT THEIR RIGHTS.

Date: _____

By: _____
Signature of Debtor, chapter 11 trustee, or their attorney

Name: ERIC P. ISRAEL
Printed name of Debtor, chapter 11 trustee, or their attorney

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

A true and correct copy of the foregoing document entitled: **NOTICE OF BAR DATE FOR FILING PROOFS OF CLAIM IN A CHAPTER 11 CASE [LBR 3003-1]** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (date) _____, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

☐ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On (date) _____, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (date) _____, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Date

Printed Name

Signature

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is 1901 Avenue of the Stars, Suite 450, Los Angeles, CA 90067-6006.

A true and correct copy of the foregoing document entitled (*specify*): **DEBTOR'S NOTICE OF MOTION AND MOTION FOR ORDER ESTABLISHING CLAIMS BAR DATE FOR PRE-PETITION CLAIMS; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION OF MICHAEL A. MCCONNELL IN SUPPORT THEREOF** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On January 16, 2020, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

☒ Service information continued on attached page.

2. SERVED BY UNITED STATES MAIL: On January 16, 2020, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Debtor
HVI Cat Canyon, Inc.
630 Fifth Avenue
Suite 2410
New York, NY 10111

Debtor
HVI Cat CANYON, INC.
630 Fifth Avenue, Suite 2410
New York, NY 10111

☐ Service information continued on attached page.

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on January 16, 2020, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

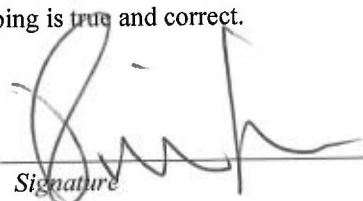
Served by Personal Delivery to be delivered by January 17, 2020
The Honorable Martin R. Barash
U.S. Bankruptcy Court
21041 Burbank Boulevard, Bin on 1st Floor outside entry to Intake Section
Woodland Hills, CA 91367

☐ Service information continued on attached page.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

January 16, 2020
Date

Vivian Servin
Printed Name


Signature

ADDITIONAL SERVICE INFORMATION (if needed):

1. SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING ("NEF")

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2. SERVED BY UNITED STATES MAIL:

REQUESTS FOR SPECIAL NOTICE

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Attorneys for Jane Connolly

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State of New York Attorney General
Attn: Letia A. James
Dept. of Law
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Albany, NY 12224

ALL CREDITORS (AS OF 1/16/2020)

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Buganko
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Bakersfield, CA 93301-4700

California State Lands Commission
Richard D. Nobles
100 Howe Ave Suite 100 S
Sacramento, CA 95825-8219

County Assessor
County Government Center,
Room 100
San Luis Obispo, CA 93408-0001

County Tax Collector
P.O. Box 357
Santa Barbara, CA 93102-0357

County of Santa Barbara, California c/o Ross Spence Snow Spence Green LLP 2929 Allen Parkway, Suite 2800 Houston, TX 77019-7125	Department of Conservation, Division of Oil, c/o California Department of Justice Office of the Attorney General 300 S. Spring Street Suite 1702 Los Angeles, CA 90013-1256	Diamond McCarthy LLP 1999 Avenue of the Stars, Suite 1100 Los Angeles, CA 90067-4618
Direct Energy Business Marketing, LLC d/b/a c/o McDowell Hetherington LLP Attention: Jarrod B. Martin 1001 Fannin, Suite 2700 Houston, TX 77002-6736	Eller Family Trust Cummins & White, LLP 2424 SE Bristol Street, Suite 300 Newport Beach, CA 92660-0764	Employment Development Dept. Bankruptcy Group MIC 92E P.O. Box 826880 Sacramento, CA 94280-0001
Franchise Tax Board Bankruptcy Section MS: A-340 P.O. Box 2952 Sacramento, CA 95812-2952	HVI Cat Canyon, Inc. c/o Capitol Corporate Services, Inc. 36 S. 18th Avenue Suite D Brighton, CO 80601-2452	Harry E. Hagen, as Treasurer-Tax Collector c/o Ross Spence Snow Spence Green LLP 2929 Allen Parkway, Suite 2800 Houston, TX 77019-7125
Internal Revenue Service PO Box 7346 Philadelphia, PA 19101-7346	Kern County Treasurer Tax Collector 1115 Truxtun Avenue 2nd Fl Bakersfield, CA 93301-4639	PACIFIC GAS & ELECTRIC COMPANY PO BOX 8329 STOCKTON CA 95208-0329
Santa Barbara Air Pollution Control District c/o Ross Spence Snow Spence Green LLP 2929 Allen Parkway, Suite 2800 Houston, TX 77019-7125	Securities & Exchange Commission 444 South Flower St., Suite 900 Los Angeles, CA 90071-2934	United States Trustee 1100 Commerce Street Room 976 Dallas, TX 75242-0996
API Waste Services PO Box 5754 Santa Maria, CA 93456-5754	Andrea Righetti Fields, Ernest Michael Righe Krista K. Sabin c/o Ogden & Fricks LLP 656 Santa Rosa Street, Suite 2B San Luis Obispo, CA 93401-4806	Beth G. McManis 1398 S. Burlington St Flagstaff, AZ 86001-2445
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County of Santa Barbara, CA c/o Snow Spence Green LLP 2929 Allen Parkway, Ste. 2800 Houston, TX 77019-7125	Daniel May, Trustee 2014 Johnson Trust DMTJT 359 S. Gerhart Ave Los Angeles, CA 90022-2314	Diamond McCarthy LLP co Allen B. Diamond 909 Fannin, Ste. 3700 Houston, TX 77010-1049
Direct Energy Business Marketing, LLC dba Direct Energy Business co McDowell Hetherington LLP. 1001 Fannin, Suite 2700 Houston, TX 77002-6736	Direct Energy Business, LLC co McDowell Hetherington LLP. 1001 Fannin, Suite 2700 Houston, TX 77002-6736	Employment Development Department Bankruptcy Group MIC 92E PO BOX 826880 Sacramento, CA 95814

Epley Family Irrevocable Trust of 1998
c/o Jean F. Bacal, Trustee
3967 Center Ave
Norco, CA 92860-1581

Frank D Gonzales MD APC
Gonzales Occupational Medicine Center
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Santa Maria, CA 93454-5133

GIT Inc.
c/o Patricia B. Tomasco
Devin van der Hahn
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